

## **REMARKS**

### **Present Status of the Application**

Applicants have noted with appreciation that the previous rejections under 35 U.S.C. Section 112, second paragraph, to claims 1-9 and 24 are withdrawn in view of Applicants' amendment filed on November 21, 2008.

Claims 1-5, 7-11, 13-17, and 21-24 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over US Publication No. 2004/0015953 to Vincent (hereinafter "Vincent") in view of US Patent No. 7,228,539 to Zhang et al. (hereinafter "Zhang").

Claims 6 and 25 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Vincent in view of US Publication No. 2003/0074403 to Harrow et al. (hereinafter "Harrow").

Claims 12 and 20 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Vincent in view of Zhang.

In response to the aforesaid rejections, Applicants have amended 2-5, 7, 10-11, 15-16, and 22-23 to correct typographical errors. Specifically, the word "steps" in claims 2-4 and 7 is replaced with "step" because the claimed method as claimed in each of claims 2-4 and 7 further comprises a single step, respectively. A colon is placed after the transition terms in claims 2-5, 11, 15-16, and 22-23. Moreover, the typographical error "client-servers" in claim 10 is corrected to read "client-server". The feature "*providing said selected user terminal with a first client-server structure and a second client-server structure*" in claim 1 is amended to read "said selected user terminal having a first client-server structure and a second client-server structure". In addition, claims 10 and

17 are revised to clarify the claimed software upgrade control system more explicitly. Supports of the amendments of claims 1, 10, and 17 are in FIG. 2, which illustrates a software upgrade control system having a system server (12) and a plurality of user terminals (18-1 and 18-2). Each of the user terminals (18-1 and 18-2) has a first client-server structure (24 or 34), a second client-server structure (26 or 36), and an agent (28 or 38). It is believed that the foregoing amendments and additions add no new matter to the present application. Currently, claims 1-17 and 20-25 are pending in the application.

**Response to Claim Rejections under 35 U.S.C. 103(a)**

*Claims 1-5, 7-11, 13-17, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Zhang. Claims 6 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Harrow. Claims 12 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Zhang.*

In so rejecting claim 1, the Office holds Vincent teaches the claimed method of software upgrade control except for the first client-server structure and the system server communicating with each other in an intervention protocol, and the Office further relies on Zhang assertedly teaching the missing feature.

Regarding the independent claim 1 of the present application, one of the user terminals is selected, and **the selected user terminal has a first client-server structure and a second client-server structure.** However, for at least the following reasons, it is believed that Vincent, Zhang, and Harrow, alone or in combination, do not disclose such

distinguishable feature of claim 1. In the Office action, the user computer 110 of Vincent is construed as equivalent to the selected user terminal of the present application, the computers 114a-114c of Vincent are construed as equivalent to the first client-server structure of the present application, and the elements 160, 162, and 164 of Vincent are construed as equivalent to the second client-server structure of the present application. Nevertheless, as shown in FIGs. 2 and 6 of Vincent, the user computer 110 does not have the computers 114a-114c and the elements 160, 162, and 164, such that Vincent fails to disclose the distinguishable feature "*the selected user terminal has a first client-server structure and a second client-server structure*", as recited in claim 1 of the present application. It is thus submitted the *prima facie* case of obviousness has not yet been established. Moreover, it is believed that neither Zhang nor Harrow remedies the deficiency of Vincent as compared with claim 1. Withdrawal of the rejection of claim 1 and its dependent claims 2-8 is respectfully requested.

In so rejecting claim 10, the Office holds Vincent teaches the claimed software upgrade control except for the first client-server structure and the system server communicating with each other in an interversion protocol, and the Office further relies on Zhang assertedly teaching the missing feature.

Regarding the independent claim 10 of the present application, each of the first user terminal and the second user terminal has a first client-server structure and a second client-server structure. In the Office action, the element 110 of Vincent is construed as equivalent to the first user terminal of the present application, the element 114 of Vincent is construed as equivalent to the second user terminal of the present

application, and the elements 110a and 110b of Vincent are respectively construed as equivalent to the first client-server structure and the second client-server structure of the present application. However, as shown in FIGs. 2 and 3 of Vincent, each of the elements 110, 114a-114c, 110a, and 110b of Vincent is a user computer. None of the user computers 110 and 114a-114c has the user computers 110a and 110b, such that Vincent fails to disclose the distinguishable feature “*each of the first user terminal and the second user terminal has a first client-server structure and a second client-server structure*”, as recited in claim 10 of the present application. It is thus submitted the *prima facie* case of obviousness has not yet been established. Moreover, it is believed that neither Zhang nor Harrow remedies the deficiency of Vincent as compared with claim 10. Withdrawal of the rejection of claim 10 and its dependent claims 11-16 is respectfully requested.

In so rejecting claim 17, the Office holds Vincent teaches the claimed software upgrade control except for communicating with the system server in an intervention protocol, and the Office further relies on Zhang assertedly teaching the missing feature.

Regarding the independent claim 17 of the present application, each of the user terminals has a first client-server structure and a second client-server structure. For the same reasons as discussed previously, Vincent fails to disclose the distinguishable feature, and it is thus submitted the *prima facie* case of obviousness has not yet been established. Moreover, neither Zhang nor Harrow remedies the deficiency of Vincent. Therefore, it is respectfully submitted that claim 17 and its dependent claims 20-25 are patentable over the cited references.

CONCLUSION

For at least the foregoing reasons, it is believed that the pending claims 1-17 and 20-25 are in proper condition for allowance and an action to such effect is earnestly solicited. If the Office believes that a telephone conference would expedite the examination of the above-identified patent application, the Office is invited to call the undersigned.

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